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7 Attorneys for Defendant
8 VARIAN MEDICAL SYSTEMS, INC.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 UNIVERSITY OF PITTSBURGH OF THE
13 COMMONWEALTH SYSTEM OF HIGHER
14 EDUCATION d/b/a UNIVERSITY OF
15 PITTSBURGH, a Pennsylvania non-profit
corporation (educational),

16 Plaintiff,

17 v.

18 VARIAN MEDICAL SYSTEMS, INC., a
Delaware corporation,

19 Defendant.

Case No. CV 08-02973 MMC

**SEALED DECLARATION OF
MATTHEW H. POPPE IN SUPPORT
OF VARIAN'S MOTION TO
TRANSFER ACTION TO U.S.
DISTRICT COURT FOR WESTERN
DISTRICT OF PENNSYLVANIA**

Date: August 1, 2008
Time: 9:00 a.m.
Courtroom: 7, 19th Floor

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22 **DOCUMENT SUBMITTED UNDER SEAL PURSUANT TO CIVIL L.R. 79-5(d)**

23 **CONTAINS MATERIAL DESIGNATED "CONFIDENTIAL" AND "CONFIDENTIAL –**
24 **ATTORNEY EYES ONLY" PURSUANT TO PROTECTIVE ORDER ENTERED IN**
25 **UNIVERSITY OF PITTSBURGH V. VARIAN MEDICAL SYSTEMS, INC., CASE NO. 2:07-**
26 **CV-00491-AJS IN THE U.S.D.C. WESTERN DISTRICT OF PENNSYLVANIA**

1 I, Matthew H. Poppe, declare:

2 1. I am a partner in the law firm of Orrick, Herrington & Sutcliffe LLP (“Orrick”),
3 counsel of record for defendant Varian Medical Systems, Inc. (“Varian”) in this action and in
4 *University of Pittsburgh v. Varian Medical Systems, Inc.*, Case No. 2:07-cv-00491-AJS, in the
5 Western District of Pennsylvania (the “Penn. Case”). I am licensed to practice law in the State of
6 California. I have personal knowledge of the facts stated herein, except where otherwise stated,
7 and I could and would testify to those facts if called as a witness.

8 2. Attached hereto as Exhibit A is a true and correct copy of excerpts from the
9 deposition of Karun Shimoga, taken on August 31, 2007 in the Penn. Case.

10 3. Attached hereto as Exhibit B is a true and correct copy of excerpts from the
11 deposition of Joel Greenberger, taken on September 21, 2007 in the Penn. Case.

12 4. Attached hereto as Exhibit C is a true and correct copy of excerpts from the
13 deposition of Andre Kalend, taken on October 5, 2007 in the Penn. Case.

14 5. Attached hereto as Exhibit D is a true and correct copy of excerpts from the
15 deposition of Takeo Kanade, taken on September 19, 2007 in the Penn. Case.

16 6. Attached hereto as Exhibit E is a true and correct copy of excerpts from the
17 deposition of Robert Wooldridge, taken on September 26, 2007 in the Penn. Case.

18 7. Attached hereto as Exhibit F is a true and correct copy of excerpts from the
19 deposition of Richard Westerhoff, taken on October 3, 2007 in the Penn. Case.

20 8. Attached hereto as Exhibit G is a true and correct copy of excerpts from the
21 deposition of Marc Malandro, taken on October 2, 2007 in the Penn. Case.

22 9. Attached hereto as Exhibit H is a true and correct copy of a document produced in
23 the Penn. Case by Carnegie Mellon University (“CMU”) pursuant to subpoena with Bates Nos.
24 CMU 0279 to CMU 0283 and marked as Exhibit 7 at Mr. Wooldridge’s deposition on September
25 26, 2007. The same document (though with different Bates numbers) was marked as Exhibit 1 at
26 Mr. Malandro’s deposition on October 2, 2007.

27 10. Attached hereto as Exhibit I is a true and correct copy of a document produced in
28 the Penn. Case by CMU pursuant to subpoena with Bates Nos. CMU 0274 to CMU 0278 and

1 marked as Exhibit 9 at Mr. Wooldridge's deposition on September 26, 2007. The same document
2 was marked as Exhibit 10 at Mr. Malandro's deposition on October 2, 2007.

3 11. Attached hereto as Exhibit J is a true and correct copy of a document produced in
4 the Penn. Case by CMU pursuant to subpoena with Bates Nos. CMU 0227 to CMU 0236 and
5 marked as Exhibit 24 at Mr. Wooldridge's deposition on September 26, 2007.

6 12. Attached hereto as Exhibit K is a true and correct copy of a document produced in
7 the Penn. Case by CMU pursuant to subpoena with Bates No. CMU 0237 and marked as Exhibit
8 25 at Mr. Wooldridge's deposition on September 26, 2007.

9 13. Attached hereto as Exhibit L is a true and correct copy of a document produced in
10 the Penn. Case by CMU pursuant to subpoena with Bates Nos. CMU 0238 to CMU 0248 and
11 marked as Exhibit 26 at Mr. Wooldridge's deposition on September 26, 2007.

12 14. Attached hereto as Exhibit M is a true and correct copy of a document produced in
13 the Penn. Case by CMU pursuant to subpoena with Bates Nos. CMU 0256 to CMU 0257 and
14 marked as Exhibit 29 at Mr. Wooldridge's deposition on September 26, 2007.

15 15. Attached hereto as Exhibit N is a true and correct copy of a document produced in
16 the Penn. Case by CMU pursuant to subpoena with Bates No. CMU 0258 and marked as Exhibit
17 30 at Mr. Wooldridge's deposition on September 26, 2007.

18 16. Attached hereto as Exhibit O is a true and correct copy of a document produced in
19 the Penn. Case by CMU pursuant to subpoena with Bates No. CMU 0259 and marked as Exhibit
20 31 at Mr. Wooldridge's deposition on September 26, 2007.

21 17. Attached hereto as Exhibit P is a true and correct copy of a document produced in
22 the Penn. Case by CMU pursuant to subpoena with Bates No. CMU 0260 and marked as Exhibit
23 32 at Mr. Wooldridge's deposition on September 26, 2007.

24 18. Attached hereto as Exhibit Q is a true and correct copy of a document produced in
25 the Penn. Case by CMU pursuant to subpoena with Bates No. CMU 0262 and marked as Exhibit
26 34 at Mr. Wooldridge's deposition on September 26, 2007.

27 19. Attached hereto as Exhibit R is a true and correct copy of excerpts from the
28 deposition of Alexander Ducruet, taken on October 2, 2007 in the Penn. Case.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the SEALED DECLARATION OF MATTHEW H. POPPE IN SUPPORT OF VARIAN'S MOTION TO TRANSFER ACTION TO U.S. DISTRICT COURT FOR WESTERN DISTRICT OF PENNSYLVANIA was served upon the University of Pittsburgh, through its counsel, via:

<u> X </u>	Hand-Delivery
<u> </u>	Facsimile
<u> </u>	First Class, US Mail, Postage Prepaid
<u> </u>	Certified Mail-Return Receipt Requested
<u> </u>	ECF Electronic Service
<u> </u>	Overnight Delivery

at the following addresses:

Rita E. Tautkus
Morgan Lewis & Bockius, LLP
One Market – Spear Street Tower
San Francisco, CA 94105
rtautkus@morganlewis.com

Dated: June 27, 2008

/s/ Matthew H. Poppe
Matthew H. Poppe

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2 MATTHEW H. POPPE (State Bar No. 177854)
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7 Attorneys for Defendant
8 VARIAN MEDICAL SYSTEMS, INC.

9 UNITED STATES DISTRICT COURT
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11 SAN FRANCISCO DIVISION

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14 EDUCATION d/b/a UNIVERSITY OF
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17 v.

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Delaware corporation,

19 Defendant.
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Case No. CV 08-02973 MMC

MANUAL FILING NOTIFICATION

**SEALED EXHIBITS A THROUGH X
IN SUPPORT OF SEALED
DECLARATION OF MATTHEW H.
POPPE IN SUPPORT OF VARIAN'S
MOTION TO TRANSFER ACTION
TO U.S. DISTRICT COURT FOR
WESTERN DISTRICT OF
PENNSYLVANIA**

Date: August 1, 2008
Time: 9:00 a.m.
Courtroom: 7, 19th Floor
Judge: Honorable Maxine M. Chesney

MANUAL FILING NOTIFICATION

Regarding:

**(1) Sealed Exhibits A through X in Support of Sealed Declaration Of
Matthew H. Poppe In Support Of Varian's Motion To Transfer Action To U.S. District
Court For Western District Of Pennsylvania**

(2) This filing is in paper or physical form only, and is being maintained in the
case file in the Clerk's office.

If you are a participant in this case, this filing will be served in hard-copy shortly.

For information on retrieving this filing directly from the court, please see the
court's main web site at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

This filing was not efiled for the following reason(s):

☐ Voluminous Document (PDF file size larger than the efilng system allows)

☐ Unable to Scan Documents

☐ Physical Object (description): _____

☐ Non-Graphic/Text Computer File (audio, video, etc.) on CD or other media

☒ Confidential - Item Under Seal.

☐ Conformance with the Judicial Conference Privacy Policy (General Order 53).

☐ Other (description): _____

Dated: June 27, 2008

WILLIAM L. ANTHONY
MATTHEW H. POPPE
ZHENG LIU
ORRICK, HERRINGTON & SUTCLIFFE LLP

By: /s/ Matthew H. Poppe /s/
Matthew H. Poppe
Attorneys for Defendant
VARIAN MEDICAL SYSTEMS, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **Manual Filing Notification: Sealed Exhibits A Through X In Support Of Sealed Declaration Of Matthew H. Poppe In Support Of Varian's Motion To Transfer Action To U.S. District Court For Western District Of Pennsylvania** was served upon the University of Pittsburgh, through its counsel, via:

_____	Hand-Delivery
_____	Facsimile
_____	First Class, US Mail, Postage Prepaid
_____	Certified Mail-Return Receipt Requested
<u> X </u>	ECF Electronic Service
_____	Overnight Delivery

at the following addresses:

Rita E. Tautkus
Morgan Lewis & Bockius, LLP
One Market – Spear Street Tower
San Francisco, CA 94105
rtautkus@morganlewis.com

Dated: July 2, 2008

/s/ Matthew H. Poppe
Matthew H. Poppe